DOCUMENT RESUME

ED 464 431 EC 308 932

AUTHOR	Anderson, Carolyn
TITLE	Children in Need of Surrogate Parents: Program Rules and Procedures in Minnesota. A Handbook for Administrators. Second Edition.
INSTITUTION	PACER Center, Inc., Minneapolis, MN.
SPONS AGENCY	Minnesota State Dept. of Children, Families, and Learning, St. Paul.
PUB DATE	2001-00-00
NOTE	61p.
AVAILABLE FROM	PACER Center, 8161 Normandale Blvd., Minneapolis, MN 55437-1044 ($9). Tel: 800-537-2237 (Toll Free); Tel: 952-838-9000; Fax: 952-838-0199; e-mail: pacer@pacer.org; Web site: http://www.pacer.org.
PUB TYPE	Guides - Non-Classroom (055)
EDRS PRICE	EDRS Price MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*Compliance (Legal); *Disabilities; *Disadvantaged Youth; Due Process; Federal Legislation; Federal Regulation; Parent School Relationship; Program Development; School Districts; *State Regulation; State Standards
IDENTIFIERS	Individuals with Disabilities Education Act; *Minnesota; *Surrogate Parents

ABSTRACT

This manual is designed to assist Minnesota school districts in implementing surrogate parent programs under federal law (the Individuals with Disabilities Education Act) and federal and state regulations. An introduction notes that Minnesota special education rules expand on the federal law by clarifying what school districts must do, including systematically identifying students in need of a surrogate parents, recruitment and appointment of eligible volunteers, and provision of volunteer training. Part 1 explains both federal regulations and state rules concerning locus of responsibility; due process and procedural safeguards; and surrogate selection, skills and duties, and removal. Part 2 provides suggestions for the design of surrogate parent programs based on methods that have been successful in many localities. Part 3 considers questions that frequently arise as districts carry out their surrogate parent programs and offers guidelines on addressing these issues. Part 4 offers practical resources including the texts of relevant portions of federal and state law and sample letters and materials that school districts can adapt to fit their programs. (DB)

Reproductions supplied by EDRS are the best that can be made
from the original document.

ED 464 431

Children in Need of Surrogate Parents

Program Rules and Procedures in Minnesota

A Handbook for Administrators

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

☑ This document has been reproduced as received from the person or organization originating it.

☐ Minor changes have been made to improve reproduction quality.

• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

PERMISSION TO REPRODUCE AND DISSEMINATE THIS MATERIAL IN MICROFICHE ONLY HAS BEEN GRANTED BY

P. Goldberg

TO THE EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)

2B

EC 308932

PACER Center

Second Edition

BEST COPY AVAILABLE

EC 308932

Children in Need of Surrogate Parents

Program Rules and Procedures in Minnesota

A Handbook for Administrators

Written by Carolyn Anderson, Parent Training Advocate

Paula F. Goldberg, PACER Center Executive Director

© 2001, 1997 by PACER Center. All rights reserved.

Readers may reprint or reproduce the sample forms in the appendix. No other portion of this book may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, electronic, mechanical, photocopying, recording, or otherwise, without express written permission of PACER Center, except for brief quotations or critical reviews.

Special thanks to the Minnesota Department of Children, Families, and Learning for funding and review of the updated contents.

Views expressed in this guidebook do not necessarily reflect those of any funding source.

PACER Center, Inc.
8161 Normandale Blvd., Minneapolis, MN 55437-1044
(952) 838-9000 voice; (952) 838-0190 TTY
(800) 53 PACER (toll-free in Minnesota); (952) 838-0199 fax
pacer@pacer.org
www.pacer.org

Contents

Introduction **1**

Part 1: Federal and State Requirements for Surrogate Parent Programs **3**
Surrogate Parent Programs 5
Due Process Procedural Safeguards/Parent Involvement 8

Part 2: Public Agency Procedures **13**
Step 1: Identifying students who need surrogate parents 16
Step 2: Recruiting, assigning, and terminating surrogate parents 19
Step 3: Training surrogate parents 26

Part 3: Frequently Asked Questions **31**

Part 4: Resources **41**
Federal Regulations Concerning Surrogate Parents 43
Minnesota Rules Concerning Surrogate Parents 45
Sample Written Materials for School District Use 48

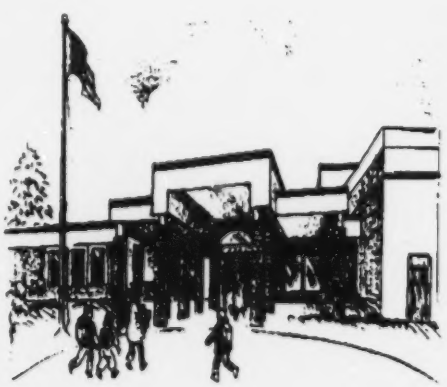
Introduction

Special education laws grant a significant decision-making role to parents of children with disabilities. When children do not have parents available to represent them at school, federal law directs states to name surrogate (substitute) parents. These surrogates advocate on behalf of their assigned children in all procedures involving special education programs.

Public Law 105-17, the Individuals with Disabilities Education Act (IDEA), directs public agencies to establish a surrogate parent program to ensure that students with disabilities who are otherwise unrepresented by family have someone to articulate their individual needs.

Minnesota special education rules expand on the federal law. They clarify what school districts must do to provide surrogate parents. Each district must:

1. systematically identify students in need of a surrogate parent
2. recruit and appoint eligible volunteers to serve as surrogate parents
3. provide the required training for those volunteers



Surrogate parents have become increasingly important in special education because more children are living outside a traditional family for some period during their lives. Schools must carefully review all their students' records to identify any who might need a surrogate parent to represent them.

This manual is designed to assist school districts in implementing their surrogate parent programs.

Part 1 explains both federal regulations and state rules.

Part 2 provides suggestions for school districts to use in designing their surrogate parent programs. Although they are not specified in federal regulations or state rules, the methods have been successful in many localities. To avoid reinventing the wheel, Minnesota districts may adapt these procedures for use in their systems.

Part 3 looks at questions that frequently arise as districts carry out their surrogate parent programs and offers guidelines on addressing these issues.

Part 4 offers practical resources. It reprints the relevant portions of federal and state law and provides sample letters and materials school districts can adapt to fit their programs.

Part 1: Federal and State Requirements for Surrogate Parent Programs

Surrogate Parent Programs

Who is responsible for establishing a surrogate parent program?

Federal regulations specify that a "public agency" shall ensure the rights of a student with disabilities through appointment of a surrogate parent. In this context, the public agency is the state or the local or intermediate educational agency responsible for providing special education and related services.

In Minnesota regulations, the public agency is called the "providing district." The Minnesota Department of Children, Families & Learning monitors local districts to be sure they comply with requirements and provides guidance to the districts as they implement the rules. The providing district is responsible for arranging surrogate parent representation for all eligible special education students.

> The providing district is not necessarily the district that actually delivers or pays for a child's services; rather, it is the district responsible for seeing that educational services are provided to a child.

The law defines three types of providing districts:

1. The district where the child lives (district of residence) may be the providing district. In this case, the district might:

- provide services for a child through the school system of its own district or special education cooperative
- provide services for a child through another district or cooperative (the child then travels during the day to receive such services at another site)

- provide services for a child placed in a residential setting outside the district because of the child's educational needs (for instance, a child from District A might be placed by that district in a residential school in District B.

In the situations above, the child's resident district makes a placement for educational reasons and therefore is responsible for appointing a surrogate parent for eligible children. Logically, of course, in the third example, District A should contact school administrators at the residential school and arrange to have a surrogate parent appointed from that geographic area. However, District A stills hold the responsibility for assuring that the child is appropriately represented by a surrogate parent.

2. A school district other than the resident district may be the providing district. When the child's district of residence provides services or places the child outside the district for educational reasons, it remains the providing district. Sometimes, however, another agency, such as county social services, places a child outside the district of residence. In this case, the placement is not made for educational reasons.

If an agency other than a school district places a child in a setting outside the child's home, the original school district is no longer responsible for appointing the surrogate parent. The new school district where the child now resides becomes the providing district and assumes that responsibility.

For example, suppose Mara, who is from Willmar, is placed by the county in a foster home in St. Paul. If Mara is eligible to have a surrogate parent appointed for her, the Willmar school district is no longer responsible for that appointment because Willmar is no

longer considered the child's "providing district." Instead, the local school district of Mara's foster home (St. Paul) is now providing educational services and becomes responsible for appointing a surrogate parent for Mara.

3. A state-level department may be the providing district. The providing district is usually either the district of residence or the district in which a foster home, residential facility, or regional treatment center is located. There are, however, exceptions.

In Minnesota, the only instances in which a public school does not have responsibility for the appointment of a surrogate parent are for those students placed in the juvenile correctional facilities at Red Wing, Thistledew, and Mesabi. For these students, the commissioner of corrections would be the providing district.

For students placed at the Minnesota State Academy for the Deaf in Faribault (MSAD) or the Minnesota State Academy for the Blind in Faribault (MSAB), the the Minnesota Department of Children, Families, and Learning is in the process of determining who is considered the providing district.

Note: Under the Individuals with Disabilities Act (IDEA'97), students ages 18 to 21 do not have a right to a free, appropriate public education if they either were not identified as a child with a disability or did not have an IEP *in their last educational placement* before incarceration in an adult correctional facility. [Section 612.(a)(1)(B) (ii)(I) and (II)]

8.0 Due Process Procedural Safeguards/Parent Involvement

Parent involvement/due process refers to the parental rights and responsibilities, according to state and federal laws, rules, and regulations, in all aspects of developing, planning, acquiring, and implementing special education and related services for pupils with disabilities.

Each SEA shall ensure that each public agency establishes, maintains, and implements procedural safeguards that meet the requirements of 34 C.F.R. 300.500-300.529. *34 C.F.R. 300.500(a)*

Each lead agency shall be responsible for establishing or adopting procedural safeguards that meet the requirements of [C.F.R. 303, subp. E,] and ensuring effective implementation of the safeguards by each public agency in the State that is involved in the provision of early intervention services under part 303. *34 C.F.R. 303.400*

Children with a disability and their parents or guardians are guaranteed procedural safeguards and the right to participate in decisions involving identification, including assistive technology assessment, and educational placement of children with a disability. *Minn. Stat. 125A.08(a)(3)*

Parents of children with disabilities have a right to be involved by the school district in the education decision-making process by participating or being afforded the opportunity to participate at each IEP meeting to develop, review, or revise the IEP. At the time of contact, the district shall inform the parents of their right to bring anyone of their choosing to accompany them to the meeting. The district shall inform the pupil's parents about the alternatives and methods of instruction as described in Minnesota Statutes, section 125A.08. *Minn. R. 3525.0700*

[The TSES (Total Special Education System) plan shall include descriptions of the district's] specific programs for involving parents of children with disabilities and pupils in district policy-making and decision-making pursuant to federal regulations, including, but not limited to, a district or jurisdictional special education advisory council.

Minn. R. 3525.1100, subp. 2(D).

The parents of a child eligible under this part may determine whether they, their child, or other family members will accept or decline any early intervention service under this part in accordance with State law, and may decline such a service after first accepting it, without jeopardizing other early intervention services under this part. *34 C.F.R. § 303.405.*

8.1 Identification of Parent

8.1.1 Definition of Parent

(A) As used in this part, the term parent means:

(1) A natural or adoptive parent of a child;

(2) A guardian but not the State if the child is a ward of the State;

(3) A person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare); or

(4) A surrogate parent who has been appointed in accordance with 34 C.F.R. 300.515.

(B) Unless State law prohibits a foster parent from acting as a parent, a State may allow a foster parent to act as a parent under Part B of the Act if:

(1) The natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law; and

(2) The foster parent has an ongoing, long-term parental relationship with the child; is willing to make the educational decisions required of parents under the Act; and has no interest that would conflict with the interests of the child.

34 C.F.R. 300.20

8.1.2 Effort to Locate Parent

Reasonable efforts shall be made to locate the parent. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address.

Minn. R. 3525.2435

8.1.3 Surrogate Parents

A. When a Surrogate is required

The district shall appoint the surrogate parent when:

A. the parent, guardian, or conservator is unknown or unavailable;

B. the pupil is a ward of the commissioner of human services; or

C. the parent requests in writing the appointment of a surrogate parent. The request may be revoked in writing at any time.

Minn. R. 3525.2440

B. Agency Decision

The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This

must include a method for determining whether a child needs a surrogate parent, and for assigning a surrogate parent to the child.

34 C.F.R. 300.515(b)

The district shall consult the county social services office before appointing the surrogate parent when a pupil is the ward of the commissioner of human services. *Minn. R. 3525.2445*

C. Selection

(c) The public agency may select a surrogate parent in any way permitted under State law. Except as provided in paragraph (c)(3) of this section, public agencies shall ensure that a person selected as a surrogate is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child; has no interest that conflicts with the interest of the child he or she represents; and has knowledge and skills that ensure adequate representation of the child. A public agency may select as a surrogate a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the standards in paragraphs (c)(2)(ii) and (iii) of this section.

(d) A person who otherwise qualifies to be a surrogate parent under paragraph (c) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent. *34 C.F.R. 300.515(c)(d)*

D. Surrogate Skills and Duties

The surrogate parent may represent the child in all matters relating to the identification, evaluation, and educational placement of the child, and the provision of FAPE to the child. *34 C.F.R. 300.515(e)*

The district shall either make the information and training available to the surrogate parent or appoint a surrogate parent who has all of the following knowledge and skills:

A. state and federal requirements;

B. district structure and procedures;

C. nature of the pupil's disability and needs; and

D. an ability to effectively advocate an appropriate educational program for the pupil.

Minn. R. 3525.2455

E. Removal of Surrogate

A surrogate parent may be removed by majority vote of the school board. The surrogate parent must be notified of the time and place of the meeting at which a vote is to be taken and of the reasons for the proposed removal. The surrogate parent shall be given the opportunity to be heard. Removal may be for any of the following reasons:

A. failure to perform the duties required in the team meeting and IEP process and those cited in Code of Federal Regulations, title 34, part 300, a federal regulation to implement part B of the Education of the Handicapped Act;

B. conflict of interest as referenced in Code of Federal Regulations, title 34, section 300.514(c)(2);

C. actions that threaten the well-being of the assigned pupil;

D. failure to appear to represent the pupil; or

E. the pupil no longer needs special education.

Minn. R. 3525.2450

Note: See C.F.R. 303.406 for infants and toddlers.

Part 2:
Public Agency Procedures

Federal regulations and state rules specify that the public agency (the providing district) must have procedures in place to ensure three specific outcomes. Each district must have procedures to:

1. determine which children with disabilities within the district need surrogate parents
2. recruit and assign or appoint surrogate parents
3. train surrogate parents in the knowledge and skills required to fulfill their roles

School districts may want to designate someone to head their surrogate parent program. This person would be the contact within the district who is in charge of recruiting and assigning surrogate parents, implementing and monitoring procedures identifying children in need of this service, and providing or planning for the training of surrogate parents. The contact person would make sure that rules and procedures are followed.

Each school district has the full responsibility for recruiting, training, and assigning surrogate parents. In a cooperative, the director of special education for the cooperative (or a designee) is often best equipped to serve as the coordinator for all member districts in order to expedite the program and avoid duplication of the efforts of individual school districts.

Step 1: Identifying students who need surrogate parents

Students who either already receive special education services or who are thought to need such services are entitled to a free, appropriate public education (FAPE) and may be served by surrogate parents. In Minnesota, this includes students from birth to age 18 (or 21 if the student is a ward of the state).

Federal IDEA regulations state that when no parents can be identified for students with disabilities, districts must assign a surrogate parent. In federal regulations, *parent* is defined as:

(1) a natural or adoptive parent of a child;

(2) a guardian but not the State if the child is a ward of the State;

(3) a person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare); or

(4) a surrogate parent who has been appointed in accordance with the specific section of the regulations dealing with surrogates. [300.20]

Minnesota Rules, which expand on the federal regulations, state that a surrogate parent shall be appointed under three conditions:

1. The parent, guardian, or conservator is unknown or unavailable. In order to establish that a child's parents are actually "unknown or unavailable," state rules instruct school districts to first make reasonable efforts to locate the parent. "These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address" (M.R. 3525.2435). The rules do not define an unavailable parent.

Sometimes a school district identifies a child in need of special education evaluation, but the parents do not respond to the district's request for initial evaluation or placement. In such cases, the school district may wish to inform the parent of its responsibility to appoint a surrogate upon their request. If the parents do not request a surrogate and refuse consent for an initial evaluation or initial placement, the district must go to hearing to secure permission. In rare situations, districts have sought help from the local court, which then ordered the district to proceed with the initial assessment and the appointment of a surrogate parent.

2. The pupil is a ward of the commissioner of human services. Whenever a child is a ward of the state (under state guardianship), a surrogate appointment should be made.

3. The parent requests in writing the appointment of a surrogate parent. Because parents may be unable to participate in planning for their child for such reasons as illness or distance, they may request in writing that a surrogate parent be appointed to serve in their place. They may at any time revoke (also in writing) their request for a surrogate appointment. Only the parent can request removal by the school board of a person he or she requested.

Parents are not usually aware of their right to request a surrogate parent. When a potential situation arises, the parents should be notified of their right to request a surrogate parent. They should also be informed regarding the rights and responsibilities that the surrogate parent would assume in this role.

Note: In some cases, a grandmother, aunt, or other relative of a student is "acting as a parent" or serving in the parental role. Surrogate rules do not apply in these cases since the child is not in need of a surrogate parent.

Suggestions for implementing a system to identify children in need of surrogate parents

The first step for determining which children are eligible for the appointment of surrogate parents usually involves reviewing the records of students who are currently receiving special education services.

The school records of each student with disabilities should be systematically reviewed to check who has participated in the parents' role in educational decision-making. Ask the following questions to determine whether or not a child might meet the surrogate eligibility criteria:

- Is the child a ward of the state?
- Are the child's parents unknown or unavailable?
- Have the student's parents requested in writing that a surrogate be named?

Following the initial review effort in each school, an ongoing procedure to identify students who need surrogate parents should be implemented. Identifying the need for a surrogate parent could be part of the basic information gathered when children are referred for special education evaluation. Contact with the care facility or agency responsible for the child could then confirm the child's status. The identification of children in need of surrogate parents can also be part of the district's "child find" activities.

Providing districts may also wish to conduct an orientation meeting with representatives from county social services in order to discuss the surrogate parent rules and solicit county assistance in locating children who may need surrogate parents. Districts don't have legal access to student records kept by other agencies, but they do need such documentation from them to establish that a given child needs a surrogate parent and that the surrogate appointment meets state criteria. This includes, for instance, documentation that a child is a ward of the state.

Step 2: Recruiting, assigning, and terminating surrogate parents

Federal regulations specify that public agencies may select surrogate parents in any way permitted by state law, subject to three specific conditions:

1. The surrogate can have no interests that conflict with those of the child being represented.
2. The surrogate must possess knowledge and skills that ensure the child is adequately represented.
3. The surrogate may not be an employee of a public agency involved in the education or care of the child.

Both federal regulations and state rules clearly state that the surrogate may not be an employee of a public agency involved in the education or care of the child. Because foster parents are not considered employees of a public agency, they can be appointed to serve as surrogate parents for the children in their care if no conflict of interest exists, provided the child is in need of a surrogate parent.

Minnesota Rules

Minnesota education rules require that school districts consult with their county's social service office before appointing a surrogate for a child who is a ward of the commissioner of human services. (This is often referred to as *ward of the state, state ward,* or *state guardianship*). The consultation enables school districts to obtain documentation needed to establish that the student is, indeed, a ward of the state and in need of a surrogate appointment.

Minnesota education rules do not specify who, within each district, must name the surrogate. That action is subject to local school policy. The rules do specify that only the local board of education can remove a surrogate parent.

If the removal of a surrogate parent is being recommended, the school board must vote on the issue at a meeting. The surrogate must be notified of the time and place of the vote, informed of the reasons for the proposed removal, and given the opportunity to speak on his or her own behalf.

A surrogate parent may be removed for any of the following reasons:

- failure to represent the student in any of the parental functions described by federal regulations and state rules (e.g., failure to attend team meetings)
- a conflict of interest
- actions by the surrogate that threaten the student's well-being
- failure to appear to represent the student
- a change in the pupil's eligibility for special education services

When a parent has requested a surrogate appointment, the parent who made the request may revoke appointment. The request to revoke this appointment must be in writing.

Parents may choose their level of involvement in team meetings and the IEP process, but surrogate parents must participate actively. A lack of participation by surrogate parents can be cause for their termination.

Suggestions for Recruitment

Although federal regulations allow local educational agencies to select surrogate parents by methods of their own choosing, the following guidelines may be helpful:

- Surrogate parents should be adults.
- They should be willing to become thoroughly acquainted with the child's educational needs, the special education system in Minnesota, and the local school that serves the child.
- They should have a background or culture similar enough to that of the child to understand the child's special needs.
- They should reside close enough to the child's school to attend IEP meetings and conferences with teachers.

Surrogate parents cannot have any interests that conflict with the interests of the children they represent. They should be free from the possibility of any administrative reprisals for executing their rights and duties as a surrogate parent.

Surrogate parents cannot be employees of agencies involved in the education or care of the child. This includes employees of the Department of Children, Families & Learning, the local school district or educational cooperative system, a state-operated school, a regional treatment center, a private school, a group home or health care center, a county service system, or any other agency in which the individual would exercise the rights of a surrogate parent as part of his or her job.

Teachers, social workers, probation officers, and hospital superintendents, among other similar categories, are not eligible to be surrogate parents since they could be subject to an institutional bias or a conflict of interest through their position of employment.

Foster parents may be appointed and trained to serve as surrogate parents for children in their care so long as no conflict of interest exists. It should be noted, however, that *a child receiving foster care is not automatically in need of a surrogate parent.* Districts need to check the child's legal status before proceeding with a surrogate appointment. If the child is a ward of the state or needs a surrogate parent, the foster parent is usually an appropriate candidate for recruitment as a surrogate parent.

Some students with disabilities live in a residential setting (health care facilities, group homes, residential treatment centers, and juvenile correctional facilities, etc.). Federal regulations now permit "an employee of a nonpublic agency that only provides non-educational care for the child" to be a surrogate parent (CFR 300.515(c)(3)); however, Minnesota law is more restrictive. Group homes and other facilities usually receive public funds to care for the child and thus would not be eligible under Minnesota rules (3525.0200 subp. 20b). Volunteers from the community should be recruited and trained to serve as surrogate parents for those students who need one.

When naming a surrogate parent, the district should work closely with the agency responsible for the care of the child. The surrogate parent will need to keep staff informed about the child's education program.

A school district or educational cooperative may want to contact organizations or groups in the community to help recruit potential surrogate parents. The following community resources may be good sources of volunteers:

- the local Parent Teacher Student Association (PTSA) or Parent Teacher Organization
- parent advisory boards at local schools and parents from special education advisory boards in districts/cooperatives
- local advocacy groups
- parents of children with disabilities

- cultural and racial groups
- faculty groups at local colleges and universities
- United Way volunteer recruitment programs
- foster parent groups through county social service or private agencies
- organizations for retired clergy and teachers
- American Association of University Women chapters
- League of Women Voters chapters
- community service organizations such as the Kiwanis, Jaycees, or Lions.

Districts may also wish to contact local chapters of various disability organizations:

- Arc Minnesota
- Brain Injury Association of Minnesota
- Down Syndrome Association
- Epilepsy Foundation of Minnesota
- Learning Disabilities of Minnesota
- Minnesota Association for Children's Mental Health
- MAHI (formerly Metropolitan Association for the Hearing Impaired)
- Minnesota Speech-Language-Hearing Association
- Muscular Dystrophy Association of Minnesota
- National Federation of the Blind of Minnesota
- PACER Center, Inc.
- Spina Bifida Association of Minnesota
- Tourette Syndrome Association

BEST COPY AVAILABLE

- Twin Cities Autism Society
- United Cerebral Palsy of Minnesota
- Vision Loss Resources

The district may wish to conduct a media campaign to solicit volunteers for the surrogate program. Local radio announcements could be used as well as newspaper articles. (See samples on pages 49–50.) Many newspapers list volunteer opportunities. Brochures and other written information can be distributed in the community to publicize the program.

PACER Center has produced a short videotape for school districts to use in recruitment. The videotape can be shown at school district meetings, on local public cable television, or by any of the groups mentioned above or with an individual.

Volunteer registration forms are useful tools for recording information about potential volunteers and systemizing the process for gathering references. (See sample volunteer registration form on page 61.)

Once volunteers are recruited, the providing district can maintain a registry of names, or the director of a special education cooperative might keep a centralized registry of volunteers willing to serve children. Each local district—perhaps assisted by a cooperative's special education director—then needs to see that surrogate parents are trained and assigned to children with disabilities in need of surrogate parent representation. (See Step 3, pages 26–29.)

Suggestions for Assignment and Termination of Surrogate Parents

The providing district is responsible for assigning surrogate parents to eligible students with disabilities.

The person responsible for making assignments should talk with potential surrogate parents about the specific needs of students who are eligible for services. A volunteer who has a background in, or family experience with,

a particular disability, for example, might serve more effectively when assigned to a child with a similar disability. The district should also consider whether the volunteer has a cultural background that provides the knowledge and understanding needed to advocate for the child and his or her individual needs.

The providing district should send the surrogate parent a notice that includes the name of the assigned student, his or her current education program, and the school district responsible for the child. (See a sample letter of assignment on page 54.)

Federal regulations allow compensation for surrogate parents, and such payments for services as a surrogate parent do not make that person an "employee of the agency." Districts may want to develop a policy to reimburse surrogate parents for expenses such as mileage.

A copy of the notice of assignment should be kept in the student's educational records. Doing so can prevent any difficulty for the surrogate parent when he or she wishes to review the student's records. When appropriate, the student can also be notified of the surrogate parent's appointment and the role the surrogate will play in his or her educational program.

Once a district's surrogate parent program is in place, eligible students can be assigned to a surrogate at the time they are referred to the special education system.

Note: Foster parents must be formally appointed as surrogate parents; they do not automatically have the rights and responsibilities of a surrogate parent simply because they are foster parents.

Ongoing monitoring systems can ensure that surrogate parents follow regulations in representing students with disabilities. Regular communication with surrogate parents and the staff who work with them help the district determine if additional training and assistance are needed.

Open-ended appointments and annual reviews for surrogate parents are recommended because they provide a mechanism for terminating appointments. Appointments may be terminated for a variety of reasons: a surrogate is negligent in representing the child, the child's eligibility for special education services ends, the child's own parent reappears, the student reaches the age of majority, or other factors.

Remember: if a parent has requested a surrogate to be appointed, the parent may revoke that request in writing at any time.

Step 3: Training surrogate parents

According to federal regulations, surrogate parents represent the child in all matters relating to the child's identification, evaluation, and educational placement and to the provision of a free, appropriate public education to the child. In other words, surrogate parents are authorized to carry out all responsibilities granted to parents under IDEA. The surrogate parent regulations grant them the authority to participate in decisions only about educational services.

Federal regulations require surrogate parents to have the knowledge and skills necessary to represent a child adequately, and Minnesota rules make the providing district responsible for ensuring that surrogates possess:

- knowledge of federal and state requirements
- knowledge of district structure and procedures
- knowledge of the nature of the pupil's disability and needs
- ability to advocate effectively for an appropriate educational program

The Role of a Surrogate Parent

Surrogate parents must represent the child in all matters relating to his or her special education. Specifically, their duties include:

- responding with approval or disapproval to requests from the school district for an educational evaluation
- initiating requests for evaluations and reevaluations
- reviewing and receiving a copy of the student's educational records and protecting the confidentiality of such records
- participating in case conferences, IEP meetings, and other parent-school conferences
- approving or disapproving educational placement
- initiating complaint or due process procedures
- representing the child in any due process or complaint procedures initiated by the education provider
- monitoring the child's educational development and progress
- acting as the child's parent/advocate by requesting services or communicating with the school about services or the lack of services, if necessary

Surrogate parents must learn as much as possible about the child and his or her educational history and needs in order to fully participate on the educational planning team.

An effective surrogate parent should be able to communicate openly with agency personnel and to express clearly and constructively any concerns about the child's educational needs and program. The surrogate parent does not need to be educated in a specific professional field in order to be effective. She or he should be a caring person who is willing to learn about the child and the child's special education needs.

Suggestions for training for surrogate parents

In order to be sure that surrogate parents have the knowledge required by federal and state regulations, the providing district needs to ensure that they have specific knowledge of the following:

- the role and responsibilities of surrogate parents
- the procedures for IEP development, evaluation, case conference, access to records, and confidentiality
- terminology used during the special education process
- protections and procedural safeguards available to students with disabilities and surrogate parents to ensure that the needs of each student are met
- the range of special education programs and services available and the identification of administrative and instructional staff assigned to provide those programs

Surrogate parents need to have opportunities to observe their assigned students in the classroom and other learning environments.

Information can be given to surrogate parents in a variety of ways, whether through workshops offered by the district or cooperative, individual training, or parent training center workshops, such as those offered by PACER Center. PACER Center provides surrogate parent training and many materials appropriate for training, including *A Training Manual for Surrogate Parents*, produced for the Minnesota Department of Children, Families & Learning (available for purchase from PACER Center) and a videotape, *Becoming a Surrogate Parent.* (See page 62 for more information.)

Much of the training information surrogate parents should receive also applies to others. Social workers and other personnel from related community agencies (such as county social services, nursing homes, group homes, treatment centers, and correctional facilities), as well as local teachers and administrators may also find the surrogate parent training valuable.

Training and consultation should be ongoing as the needs of individual surrogate parents dictate. Surrogate parents should also be included in any meetings and trainings offered to other parents of children with disabilities within the school district or cooperative.

For more information about PACER Center's Surrogate Parent program, call PACER at (952) 838-9000.

Part 3: Frequently Asked Questions

Federal regulations and state rules do not explicitly address every aspect of surrogate parent programs. Here are some questions that frequently arise when districts are planning their programs. The answers are administrative interpretations intended to offer direction to school districts.

What happens when the providing district isn't the same as the student's resident district?

In such cases, it's important for the providing district to consult with the student's district of residence. If a surrogate parent had already been appointed for the student and the geographical distance is not too great, it may be logical for the previous surrogate parent to be appointed by the new school district to continue to serve the student.

Are there any special considerations for students aged 18 through 21 who might need surrogates?

Under IDEA and Minnesota rules, students aged 18 through 21 are considered to act as their own parent unless they have a court-appointed guardian or conservator. Under those conditions, there is no need for a surrogate to be appointed. Only students aged 18 through 21 who are wards of the state continue to be eligible for surrogate parent services. If a student serving as his or her own parent requests that a surrogate parent be named, however, a surrogate should be appointed.

How many students can be served by one surrogate parent?

There are no specific rules or formal limits on the number of students each surrogate parent may serve. Experience, however, suggests that a reasonable caseload would be up to three students, according to a report prepared by the National Association of State Directors of Special Education (NASDSE). When appointing more than one child to a surro-

gate parent, school districts should consider whether or not the surrogate's student load allows enough time to perform the required duties. Many people may be willing to serve as a surrogate parent but would not want to serve more than one child.

What are some of the factors to consider when choosing a surrogate?

In appointing a surrogate parent, districts should determine whether the person:

- has a potential conflict of interest
- already has knowledge and skills that ensure adequate representation of the child
- is willing to be trained to acquire the necessary knowledge and skills

It is important for a surrogate parent to understand the child's experience and culture in order to effectively advocate for that child in the complete education setting. Another consideration would be whether or not the prospective surrogate has an adequate understanding of the child's particular disability.

What is meant by a parent who is unavailable?

An unavailable parent is one whose identification and location are known but who is unwilling or unable to participate in planning the child's educational program. When attempting to involve an unavailable parent in any educational decision requiring a signature, the district has only two options:

1. implement due process procedures to secure permission from a hearing officer to proceed with a proposed action, e.g., initial evaluation or placement
2. secure permission from the parent to appoint a surrogate parent to serve in his or her place

In other words, school districts cannot violate due process procedures by inappropriately appointing a surrogate parent to obtain "consent," since this would violate parental rights.

What if a parent requests that a particular person become the surrogate?

When a parent requests that a specific individual be named as surrogate parent, the district must comply. The district cannot require a parent-requested surrogate to go through training. The school board can remove a parent-requested surrogate only at the request of the parent. The parent alone can revoke the request for this individual to be the surrogate.

What does a district do when a student has someone acting in the parental role?

According to federal regulations, if a person such as an aunt or grandparent is "acting as a parent of a child," appointment of a surrogate parent is unnecessary. (The person acting as parent need not be a relative.) If this person is willing to participate in the child's educational planning, school districts may wish to seek the acting parent's consent in writing to be officially named as a surrogate.

A person who is acting as a parent at the request of a parent cannot be *required* to take surrogate parent training. All due process procedures must be followed. If the person "acting as a parent" has also been appointed as a surrogate at the request of the parent, only the parent can request that the school board remove that person.

Who is not eligible to serve as a surrogate parent?

Federal regulations or state rules exclude people who receive public funds to educate or care for the child, those who have any interest that may conflict with the interests of the child they represent, and those who are employed by a public agency involved in the education or care of a child. Potential surrogate parents who either do not have, or refuse to acquire, the necessary knowledge and skills to fulfill the surrogate role are also ineligible.

These rules and regulations exclude the director of a group home or a county social worker, for example, from serving as a surrogate parent. Employees of a private facility where the student lives are also excluded because they usually receive public funds to care for the child and could have a potential conflict of interest.

What about foster parents?

Foster parents can be appointed and serve as surrogate parents for the children in their care if the child is eligible for a surrogate parent and no conflict of interest exists. Foster parents are not employees of the public agency because they do not receive a salary. The money they receive reimburses them for the child's expenses. Foster parents are often very willing to be appointed as surrogate parents. They are viewed as good candidates, since they are knowledgeable about the child's needs. Additionally, they are accustomed to taking specific training sessions regarding the needs of children.

Long-term foster parents would be regarded as good candidates for appointment under both federal regulations and Minnesota rules.

What about guardians?

Anyone who has been court-appointed as a legal guardian or conservator serves as parent; therefore, no surrogate appointment is needed. However, if the child's guardian is the commissioner of human services (i.e., the child is a ward of the state), a surrogate parent must be appointed according to state rules and federal regulations.

What about guardians ad litem?

During the past few years, more programs and services that may appoint a guardian ad litem to represent a child have developed. A guardian ad litem is different from a court-appointed guardian or conservator. A guardian ad litem is assigned to represent the child through a specific legal situation, not to represent the child in any other situations.

Who within the school district is responsible for naming surrogate parents?

State education rules do not specifically address this issue and leave each district with the option of deciding which individual(s) will be responsible for surrogate parent appointments. This could be the special education director or any other person designated by the district. It is important that the person be knowledgeable about surrogate parent rules and responsibilities.

Some districts have decided that having the school board appoint surrogate parents is impractical. Because team meetings and IEP development are ongoing, requiring that the school board be the sole body in charge of appointments could unnecessarily delay services to students with disabilities. Many school boards meet only once a month, not frequently enough to ensure necessary services.

How can a parent request that a surrogate parent be appointed?

In Minnesota, parents may request in writing to the school district that a surrogate parent be appointed for their child. They may request that a specific person be appointed or that the district chose someone to appoint. Parents may revoke the request in writing at any time. (See pages 52–53 for sample forms parents can use.)

Do surrogate parents incur any legal liability?

The legal liability of surrogates is determined under state laws relating to such matters as breach of fiduciary duty, negligence, and conflict of interest. There appears to be nothing in state law that specifically addresses the potential liability of either natural or surrogate parents. Because surrogate parents are not employees of the district, they are not usually covered by a school district's insurance. Check the district's policy covering liability of volunteers.

Can a surrogate parent be paid for this service by a school district?

Yes. For example, a school district may choose to reimburse a surrogate parent for expenses incurred while serving as a surrogate parent. Surrogates are not considered district employees even if they are paid by the district for their services.

What if a surrogate parent and the child's county social worker disagree?

If a child's surrogate parent and the child's county social worker disagree, efforts should be made by the entire team to determine what is in the child's best interest. However, only the surrogate parent has legal standing to make educational decisions with the team and to sign the IEP. When surrogates disagree with the proposed service, they can initiate the appeal process.

What if the surrogate parent and the school disagree?

Surrogate parents are covered by the same rules as a child's parents. If a child's surrogate parent and the school district disagree, the methods of resolving differences remain the same. The school district should follow due process procedures. The school district may not dismiss the surrogate parent except under the circumstances outlined on page 12.

What if Child Protection takes a child out of the home? Can the school appoint a surrogate parent for special education purposes?

As long as a parent's rights have not been terminated, the school may not appoint a surrogate without the parent's consent. The fact that a child does not live in the same home with the parents does not terminate parental rights. If the courts terminate parental rights, then the guidelines listed elsewhere in this manual apply.

What if a parent won't attend meetings?

If a parent is available but won't attend meetings, the school may not appoint a surrogate unless the parent requests it do so.

If a child in foster care is in need of a surrogate parent and the foster parent wants the appointment, must the school district appoint that person?

No. However, the school district should have a compelling reason for not appointing a willing foster parent. Court cases have stated that the foster parent is the "most logical" choice. A disagreement between school personnel and the foster parent concerning a child's educational needs is not a legitimate reason to reject the foster parent as the person to serve as surrogate parent.

Is the surrogate parent responsible for making other decisions related to activities in school?

No, the surrogate is not responsible for school activities involving such areas as the student's safety, permission slips, administration of medication, etc. The surrogate parent would need to be aware, however, that the child is taking medication during school hours or that the child may need accommodations to participate on a field trip. The surrogate parent would be responsible for seeing that needed procedures or adaptations are written into a child's educational plan. Others, such as county social workers, are responsible for following the child's medical and physical care and for signing permission slips, etc.

Do surrogate parents have rights to the child's educational records?

Surrogate parents and those "acting as parent" have all the rights guaranteed to parents under special education laws and the Family Educational Rights and Privacy Act (FERPA). Parents and surrogate parents can see, correct, obtain copies of, and approve or disapprove the right of others to see the child's educational records. If an agency other than the school has records that the surrogate parent thinks are relevant to special education planning, the surrogate would call that agency to discuss release of records to the school for educational planning.

Why is there confusion regarding the surrogate parent program?

The terminology used by different programs can be confusing. Terms used by county social service agencies are similar to those used by schools and in education laws and rules, but the terms have different meanings. County personnel may say that they are the child's guardian. When a child is under state guardianship, however, the guardian is actually the commissioner of human services. The county has the responsibility to care for the child for the commissioner of human services. However, when a child is in special education, federal rules make it clear that children with disabilities under state guardianship are in need of surrogate parents. Although school districts are responsible for locating these children, county social service personnel can be helpful by informing schools when such a child resides in the district.

Sometimes the term "ward of the state" is confused with temporary county custody. Being under custody of the county is not the same as being under state guardianship. If the status of the child is pending and the county has temporary custody, a surrogate parent cannot be appointed unless a court or judge has directed the school to appoint a surrogate parent for educational purposes. Judges may need to be informed about the specific rules related to surrogate parents. In many cases, parents have not lost their parental rights in the area of education; thus a surrogate parent cannot be appointed unless the parent requests it.

Part 4:
Resources

Federal Regulations Concerning Surrogate Parents

300.515 Surrogate parents

(a) **General.** Each public agency shall ensure that the rights of a child are protected if—

(1) No parent (as defined in 300.20) can be identified;

(2) The public agency, after reasonable efforts, cannot discover the whereabouts of a parent; or

(3) The child is a ward of the State under the laws of that State.

(b) **Duty of public agency.** The duty of a public agency under paragraph (a) of this section includes the assignment of an individual to act as a surrogate for the parents. This must include a method—

(1) For determining whether a child needs a surrogate parent; and

(2) For assigning a surrogate parent to the child.

(c) **Criteria for selection of surrogates.**

(1) The public agency may select a surrogate parent in any way permitted under State law.

(2) Except as provided in paragraph (c)(3) of this section, public agencies shall ensure that a person selected as a surrogate—

(i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;

(ii) Has no interest that conflicts with the interest of the child he or she represents; and

(iii) Has knowledge and skills that ensure adequate representation of the child.

(3) A public agency may select as a surrogate a person who is an employee of a nonpublic agency that only provides non-educational care for the child and who meets the standards in paragraphs (c)(2)(ii) and (iii) of this section.

(d) **Non-employee requirement; compensation**. A person who otherwise qualifies to be a surrogate parent under paragraph (c) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.

(e) **Responsibilities**. The surrogate parent may represent the child in all matters relating to—

(1) The identification, evaluation, and educational placement of the child; and

(2) The provision of FAPE to the child.

(Authority: 20 U.S.C. 1415(b)(2))

300.20 Parent

(a) **General.** As used in this part, the term parent means—

(1) A natural or adoptive parent of a child;

(2) A guardian but not the State if the child is a ward of the State;

(3) A person acting in the place of a parent (such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare); or

(4) A surrogate parent who has been appointed in accordance with 300.515.

(b) **Foster parent**. Unless State law prohibits a foster parent from acting as a parent, a State may allow a foster parent to act as a parent under Part B of the Act if—

(1) The natural parents' authority to make educational decisions on the child's behalf has been extinguished under State law; and

(2) The foster parent—

(i) Has an ongoing, long-term parental relationship with the child;

(ii) Is willing to make the educational decisions required of parents under the Act; and

(iii) Has no interest that would conflict with the interests of the child.

(Authority: 20 U.S.C. 1401(19))

Minnesota Rules Concerning Surrogate Parents

3525.0200 Definitions for special education

Subp. 20b. Surrogate Parent. "Surrogate parent" means a person appointed by the providing district to intervene on behalf of the pupil, to help ensure that the rights of the pupil to a free and appropriate education are protected. The surrogate parent shall not be a person who receives public funds to educate or care for the child. However, a foster parent may serve as surrogate parent if appointed and if no conflict of interest exists.

3525.2435 Effort to locate parent

Reasonable efforts shall be made to locate the parent. These may be made through documented phone calls, letters, certified letters with return receipts, and visits to the parent's last known address.

3525.2440 Surrogate parent appointment

The district shall appoint a surrogate parent when:

A. the parent, guardian, or conservator is unknown or unavailable;

B. the pupil is a ward of the commissioner of human services; or

C. the parent requests in writing the appointment of a surrogate parent. The request may be revoked in writing at any time.

3525.2445 Consultation with county social services

The district shall consult the county social services office before appointing the surrogate parent when a pupil is the ward of the commissioner of human services.

3525.2450 Removal of surrogate parent

A surrogate parent may be removed by majority vote of the school board. The surrogate parent must be notified of the time and place of the meeting at which a vote is to be taken and of the reasons for the proposed removal. The surrogate parent shall be given the opportunity to be heard. Removal may be for any of the following reasons:

A. failure to perform the duties required in the team meeting and IEP process and those cited in Code of Federal Regulations, title 34, section 300, a federal regulation to implement part B of the Individuals with Disabilities Education Act (IDEA);

B. conflict of interest as referenced in Code of Federal Regulations, title 34, section 300.514 (c) (2);

C. actions that threaten the well-being of the assigned pupil;

D. failure to appear to represent the pupil; or

E. the pupil no longer needs special education.

3525.2455 Surrogate parent knowledge and skills

The district shall either make the information and training available to the surrogate parent or appoint a surrogate parent who has all of the following knowledge and skills:

A. state and federal requirements;

B. district structure and procedures;

C. nature of the pupil's disability and needs; and

D. an ability to effectively advocate an appropriate educational program for the pupil.

Sample Written Materials for School District Use

Many school districts find it helpful to develop a standard set of communication materials such as articles, forms, and letters to address various needs in their surrogate parent programs. In this section, you'll find samples of the following:

- recruiting notice to send to community newspapers and radio stations
- follow-up letter to send to potential volunteers
- parent letter requesting a surrogate
- parent letter requesting a specific surrogate
- letter notifying surrogate parent of appointment
- training certificate
- brochure ideas
- volunteer registration form
- article to use in school district publication

A list of PACER Center's surrogate parent materials and resources follows the samples.

Recruiting notice: long version

A Chance to Make a Difference in the Life of a Child

All children deserve to have a parent advocate for their needs at school, but some children with disabilities don't have anyone to represent them. Here's a chance for you to make a difference in the life of a child by filling this important role.

The Grassland School District is seeking volunteers who are willing to be trained as surrogate parents to serve as educational advocates for children with disabilities.

Surrogate parents play the role of parent or guardian in determining a child's school program. They not responsible for the support or care of the child, only for making sure that the student has an educational program that fits his or her unique needs. Volunteers will receive training on educational planning for children with disabilities.

After training, surrogate parents meet with the child's county social worker, his or her teachers, and other school personnel who are involved in the testing and educational planning for the child.

The surrogate parent program, which is carried out under state and federal regulations, assures that children with disabilities have surrogate parents to act on their behalf when their own parents are unable to represent them.

People interested in learning more about the surrogate parent program and becoming volunteers should contact _____ _____ for more information.

Recruiting notice: short version

A Chance to Make a Difference in the Life of a Child

The Grassland School District is seeking volunteers to serve as educational advocates for children with disabilities who do not have parents to represent them at school. The project is called the surrogate parent program.

Volunteers will receive information and training on educational planning for children with disabilities. Surrogate parents carry out the same role as the parent or guardian in determining a child's school program and are not responsible for any other services to the child.

Interested persons may contact _____ for more information.

Sample follow-up letter

October 27, 2001

Dear _____,

Thank you for your interest in becoming a surrogate parent for a child with a disability.

The enclosed brochure* explains the program more fully. If you have any further questions about the surrogate parent program, please call us.

If you are interested in becoming a surrogate parent, please fill out and return the enclosed volunteer registration form. Once we receive your form, we will contact you by telephone regarding your eligibility to serve as a surrogate parent. Eligible volunteers will then receive training.

Again, thank you for your interest.

Sincerely,

Special Education Director

** Use PACER Center's brochure for surrogate parents enclosed in this manual or develop your own.*

Sample letter for a parent to use

October 27, 2001

Dear Special Education Director,

I am requesting that you appoint a surrogate parent for my child, _____, for special education planning purposes.

I understand that I have the right to cancel this request in writing at any time.

Sincerely,

Sample letter for a parent to appoint a specific person as a surrogate parent

October 27, 2001

Dear Special Education Director,

I am requesting that you appoint _____ to serve as the surrogate parent for my child, _____, for special education planning purposes.

I understand that I have the right to cancel this request in writing at any time.

Sincerely,

Sample letter to notify surrogate parents of their appointment to represent a specific child

October 27, 2001

Karen Blake
923 Whitney Avenue
Grassland, MN 55111

Dear Ms. Blake:

The Grassland School District is pleased to appoint you as a surrogate parent. In this capacity, you will have all the rights and responsibilities of a parent in matters relating to the special education program of the student you will represent.

You have been appointed to represent Sally Smith, age 10. Sally is currently under state guardianship and a resident at the Goldman House in Wineota. She attends fifth grade at the elementary school in Grassland. The principal there is Ms. Ann Byron, and Sally's classroom teacher is Mr. Jon Graham. Both may be reached by contacting the school at 345-6789.

If you have any questions about your appointment or your rights and responsibilities as a surrogate parent, please call me at 345-9876.

Sincerely,

Carol Turner

Carol Turner
Special Education Director

Surrogate parent brochure

Your school district may want to produce a brochure to use for recruiting surrogate parents. The following are suggestions for material to include in your brochure. (A customizable brochure is also available for purchase from PACER Center.

You Can Help a Child with a Disability

What is Minnesota's Surrogate Parent Program?

The parents of a child with a disability typically work with the school to see that their child receives appropriate education services. Some students, however, don't have parents to represent them. The parents may be deceased, working in another state, or otherwise unavailable. In these cases, the law calls for a surrogate parents to be named to represent the child with a disability in the educational process.

Minnesota school districts are responsible for recruiting, appointing, and training surrogate parents when necessary for children in their district. The Minnesota Department of Children, Families & Learning is responsible for seeing that districts appoint surrogates for children in need of representation.

Who needs a surrogate parent?

Any child in special education who is a ward of the state or whose parents are unknown or unavailable needs a surrogate parent. Additionally, parents may submit a written request for a surrogate parent to represent their child.

What does a surrogate parent do?

A surrogate parent

- represents the child's educational interests just as a parent would
- understands the child's disability and his or her unique educational needs
- reviews the child's assessment or evaluation and educational placement
- takes part in school meetings where the child's individualized educational plan (IEP) is reviewed and modified
- watches over the child's ongoing educational progress

A surrogate parent has no other responsibilities to the student.

Who can be a surrogate parent?

Any interested adult with time to receive training and to participate in school meetings about the child's educational plan may be eligible to be a surrogate parent. Foster parents, for instance, are eligible to be surrogate parents for any child living with them who needs representation. People who are not eligible include those with a potential conflicts of interest, such as being employed by a school district, education cooperative, county services, or group home.

How can I learn to be a surrogate parent?

Contact your school's director of special education to find out if the local district is currently recruiting surrogate parents. Applications and training materials are available from the school.

Sample article on surrogate parents

Claire has been a social worker in a Minnesota county for more than 20 years and works hard for children. She is especially concerned about Jamie, a 10-year-old boy who has Down Syndrome. Jamie's mother is terminally ill, and his father has left the family. Jamie's grandmother has become his legal guardian. She told Claire that because of her own health issues, she does not have the energy to attend IEP (individualized education plan) meetings or work with the school team to plan his special education program. But Jamie needs someone to represent his interests at school. Could Claire do it?

No. Claire is willing but legally she cannot be Jamie's special education surrogate parent. So what is a surrogate parent, and why not Claire?

A surrogate is someone, other than a student's parent, who is appointed to represent the child's interests and needs through the special education process and to help ensure his or her educational rights, according to PACER Center. The concept comes from Congress's recognizing the importance of parental involvement in planning a child's special education program. Lawmakers stipulated an alternative if parents of a child with disabilities cannot be an advocate for him or her.

The federal Individuals with Disabilities Education Act (IDEA) and state special education statutes regulate surrogate parenting. IDEA gives states some flexibility in establishing procedures. In Minnesota, local school districts are responsible for ensuring that surrogate parents are appointed, when needed, for students in their district.

A school district appoints a surrogate parent to represent a student when (1) a student's parent, guardian, or conservator is unknown or totally unavailable; (2) the student is a ward of the state; or (3) a parent requests, in writing, the appointment of a surrogate parent. Surrogate parents are often a student's foster parent or a volunteer from the local community.

A surrogate parent plans, along with the school, a student's education program, monitors his or her progress, and, if needed, questions decisions made about the student's education if they seem inappropriate. They have the same rights and responsibilities as parents and guardians in the special education decision-making process.

According to federal and state regulations, a surrogate parent:

(1) may have no conflicting interest with the child being represented;

(2) may not be an employee of a public agency involved in the care or education of the child (such as a county caseworker, teacher, or group home director);

(3) must have the skills and knowledge to represent the child adequately;

(4) must know state and federal requirements, school district procedures, and the nature of the child's disabilities and needs (the surrogate can receive training to acquire the knowledge.); and

(5) can be removed by a majority vote of a school board if he or she fails to perform surrogate parent duties as required.

Professionals, such as Claire, who are involved in the care or education of children and young adults with disabilities often ask, "Why can't I be a surrogate parent? I know the special education system, and I know and care about the student."

The major reason is conflict of interest, according to special education laws. Children's advocates explain that school and agency budget restrictions could conflict with meeting a child's individual needs. Both federal and state authorities say that it is very difficult for someone employed by a school or agency to advocate for the child as a totally neutral party.

Minnesota school districts recruit qualified persons to be surrogate parents, according to the Office of Monitoring and Compliance at the Minnesota Department of Children, Families & Learning. In one instance, when

a district could not find a surrogate parent to represent a student residing in a group home within its jurisdiction, a surrogate parent was recruited from an adjoining district.

"Many people have told me that their surrogate parenting experience was very rewarding," said Virginia Richardson, PACER's Parent Training Manager. "They felt it was beneficial to students and the community when they took personal responsibility to participate in planning an appropriate public education for a child with special needs."

Adapted from *PACESETTER*, June 1997

Sample training certificate

PACER Center gives two certificates to individuals after they complete PACER's surrogate parent training. One certificate is kept by the individual for personal records and the other can be given by the individual to the school district for their records. The district then has a record that the volunteer has received training as a surrogate parent. If your district provides its own training, you may want to adapt the following certificate:

This is to certify that

Karen Blake

has participated in a foster/surrogate training session presented by . The training program was conducted on (month, date and year, in city, state).

_____

signature

_____

date

Sample Volunteer Registration Form

Name _____ Home phone _____
Home address _____ Work phone _____
Email address _____

Are you age 18 or older?
- ☐ Yes
- ☐ No

Are any of the children in your care foster children?
- ☐ Yes (please describe):
- ☐ No

Do any of these children have disabilities?
- ☐ Yes (please describe):
- ☐ No

If you are presently employed, where do you work?

Employer's name and address:

Please describe your experiences with children or youth (special interests, organizations, and affiliations):

How did you hear about the surrogate parent program?

Please give the names and contact information of two people we can contact for recommendations:

1. _____ 2. _____
_____ _____
_____ _____

Can you suggest others who may be interested in volunteering to serve as surrogate parents? If so, please list their names and phone numbers.

Thank you. Please return this form to:

PACER Center resources available to assist you with your Surrogate Parent Program:

A Training Manual for Surrogate Parents. Designed for use in training programs for potential surrogate parents, the manual covers the history and evolution of key special education concepts, major special education laws, procedures that schools follow, and the role taken by surrogate parents. The manual contains many sample forms a surrogate parent can use for record keeping. (second ed. 2001)

Surrogate Parents: Their Role in Special Education. This videotape is designed to assist school districts in recruiting surrogate parents. It is available for purchase or rental. (15 min., open captioned, 1996)

Surrogate Parent Recruiting Flyer. This flyer can be used by school districts to recruit potential surrogate parents.

Children in Need of Surrogate Parents: Program Rules and Procedures in Minnesota (A Handbook for Administrators). This handbook is designed to assist school districts in implementing their surrogate parent programs. (2001)

Training for surrogate parents is available from PACER. Please call (952) 838-9000 for more information.